



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/158648

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 25, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 26, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined Petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Simone Johnson, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St., Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 27, 2014, the Petitioner completed a FoodShare renewal. (Exhibit 4)
3. On May 28, 2014, the agency sent the Petitioner a notice advising him that as of July 1, 2014, his FoodShare benefits would be reduced from \$189.00 to \$75.00. (Exhibit 10)

4. On June 3, 2014, the Petitioner contacted the agency and reported that he does not have a heating utility, but that he does have a phone bill. (Exhibit 4)
5. On June 9, 2014, the agency sent the Petitioner a notice advising him that as of July 1, 2014, his FoodShare benefit would be \$84.00. (Exhibit 11)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 25, 2014. (Exhibit 1)
7. The Petitioner lives alone; he pays rent in the amount of \$590.00 per month, which includes gas and electricity. (Testimony of Petitioner; Exhibits 2, 10 and 11)
8. The Petitioner's sole sources of income are State SSI, in the amount of \$83.78 per month and Federal SSI in the amount of \$721.00 per month which totals \$804.78. (Testimony of Petitioner; Exhibit 8)
9. The Petitioner has \$8.38 withheld from his SSI check due to an overpayment, this makes his counted income \$796.40. (Exhibit 9)

### DISCUSSION

Petitioner filed an appeal to contest the reduction of his FoodShare benefits.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (FSH, at § 4.6):

- (1) a standard deduction –

This is \$152 per month, 7 CFR § 273.9(d)(1):

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 CFR § 273.9(d)(2);

Petitioner does not have any earned income, so this would not apply to him

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

Petitioner did not report any out of pocket medical expenses.

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and

Petitioner did not report any child care expenses.

- (5) excess shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

There is a cap on this deduction of \$478 per month, unless the recipient is elderly, blind or disabled, meaning a food unit member age 60 or older or a person who receives disability or blindness benefits from any of these programs: SSA, MA, SSI or SSI related MA, Railroad Retirement Board (RRB ). FSH, §3.8.1.1.

FSH, §§ 4.6.7.1 and 8.1.3.

It was the excess shelter/utility deduction that changed for Petitioner.

Previously, Federal Regulations allowed households who received at least \$1.00 in energy assistance to receive an income deduction for the Heating Standard Utility Allowance (HSUA). (Ops Memo 14-16; Exhibit 12) In 2009, the State of Wisconsin issued an annual energy assistance payment of \$1.00 to FoodShare households who did not already receive energy assistance. (Exhibit 12) This allowed all households to receive an income deduction for the HSUA, which is currently, \$450. (Id.)

The 2014 Farm Bill changed the Federal Regulations to require households to receive greater than \$20 in energy assistance, in order to receive the \$450 HSUA. (Exhibit 12) Consequently, Effective April 1, 2014, the State of Wisconsin ceased providing the \$1.00 energy assistance to households not who were not receiving energy assistance. (Id.)

In Petitioner's case, he does not have an out-of-pocket heating expense and as such, would not necessarily receive energy assistance. However, Petitioner is obligated to pay for a phone utility. As such, he is entitled to a Phone Utility Allowance (PUA) of \$30.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, we have the following:

|                                    |            |                        |           |
|------------------------------------|------------|------------------------|-----------|
| Counted Gross Income               | \$796.40   | Rent                   | \$590.00  |
| No Earned Income Deduction         |            | PUA                    | +\$30.00  |
| Standard Deduction                 | -\$152.00  | 50% Net income         | -\$322.20 |
| No Medical Expenses exceeding \$35 |            |                        |           |
| No Dependent Care Expenses         |            | Excess Shelter Expense | \$297.80  |
| <hr/>                              |            |                        |           |
| Net Income                         | \$644.40   |                        |           |
| Excess Shelter Expense             | - \$297.80 |                        |           |
| <hr/>                              |            |                        |           |
| Net Income                         | \$346.60   |                        |           |

Effective November 1, 2013, individuals, in a household of one, with a net income of \$346.60 qualify for a FoodShare allotment of \$85.00 per month. FSH §8.1.2 This is one dollar more than the agency calculated.

Petitioner stated that the current FoodShare allotment is not sufficient to meet his nutritional needs. There is a list of food pantries that can be found at:

[http://www.needhelppayingbills.com/html/milwaukee\\_food\\_pantries.html](http://www.needhelppayingbills.com/html/milwaukee_food_pantries.html)

and at:

<http://www.foodpantries.org/ci/wi-milwaukee>

In addition, Petitioner might receive additional information from Hunger Task Force: (414) 777-0483 or Feeding America (Formerly Second Harvest): (414) 931-7400.

### **CONCLUSIONS OF LAW**

The agency did not correctly calculate the Petitioner's FoodShare allotment.

**THEREFORE, it is**

**ORDERED**

That the agency issue to the Petitioner FoodShare benefits totaling \$85.00 effective July 1, 2014, if he is otherwise eligible. The agency shall take all administrative steps necessary to complete this task within 10-days of this decision.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 16th day of September, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 16, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability